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ARG 6056

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X 10-Civ-2787 (WHP)  
CRAIG ROBINS,

Plaintiff,  
-against-

DAVID ZWIRNER,  
DAVID ZWIRNER GALLERY, LLC, and  
DAVID ZWIRNER, INC.,

Defendants.

-----X

**PLAINTIFF'S SECOND SUPPLEMENTAL MEMORANDUM OF LAW IN SUPPORT OF ORDER  
TO SHOW CAUSE**

AARON RICHARD GOLUB, ESQUIRE, PC  
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Of Counsel:  
Aaron Richard Golub  
Nehemiah S. Glanc

David Zwirner's ("DZ") declaration concedes that a meeting took place with the plaintiff in late May 2005 at defendants' gallery (DZ Decl. pars. 14-15), at which time the defendants claim their disagreements were resolved. Defendants had an exhibit ("2005 Exhibit") of Marlene Dumas' ("MD") work (Marlene Dumas: Selected Works, Hearing Exhibit 1) from February 18, 2005 to April 23, 2005. Jack Tilton's ("JT") testimony referred to MD's full cooperation in the 2005 Exhibit although defendants did not represent MD at that time, and DZ was aggressively seeking to represent MD and JT had no primary work of MD to sell. JT's testimony indicated that MD enthusiastically endorsed the 2005 Exhibit and had been involved in the catalogue's essay (Hearing Exhibit 1; and see Exhibit A attached hereto).<sup>1</sup> By late May 2005, MD's attitude toward DZ had changed as a result of the 2005 Exhibit (see Exhibit A). MD would not have cooperated with DZ with respect to the 2005 Exhibit unless DZ was off the blacklist. In response to the Court's question to JT: "Do you believe that DZ had the ability to get the Plaintiff off the blacklist?", plaintiff respectfully submits that, in light of the 2005 Exhibit, MD's full cooperation in the 2005 Exhibit (see Exhibit A) and its catalogue (Hearing Exhibit 1) together with defendants' current representation of MD, it is clearly inferential that DZ, in May 2005, had and has the influence and power over MD to have plaintiff taken off the blacklist. This is further confirmed by DZ offering "Grapes of Wrath" to plaintiff this year from the "Against the Wall" exhibit.

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1 MD's poems and quotes appear throughout the essay for which MD's consent was clearly obtained. Exhibit A is a copy of the last printed page in Hearing Exhibit 1.

Dated: New York, New York  
April 21, 2010

Respectfully submitted,

AARON RICHARD GOLUB, ESQUIRE, P.C.

s/ Aaron Richard Golub  
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We wish to express our warmest gratitude to Marlene Dumas, who has been indispensable in the planning and execution of this exhibition and catalogue, and special thanks are due to Jolie van Leeuwen for her invaluable contribution. We would also like to thank all of the collectors who have so generously lent us their paintings and drawings, and without whom we could not have assembled such a wonderful selection of works. Moreover, we are sincerely grateful to Marlene van Niekerk, whose insightful and original essay makes this catalogue like no other.

## ZWIRNER & WIRTH

We would also like to thank Sam Martineau and Kelly Reynolds for their dedicated efforts in the preparation and installation of this exhibition.

Editors: Kristine Bell, Greg Lulay, and Alexandra Whitney  
Copy Editor: Nadine Covert  
Exhibition Installation: Sam Martineau and Ian Umlauf  
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This catalogue accompanies the exhibition at Zwirner & Wirth  
Marlene Dumas – Selected Works  
February 18–April 23, 2005

All works by Marlene Dumas © Marlene Dumas  
Essay: © 2005 Marlene van Niekerk  
ISBN 0-9708884-8-1

=====NOTICE OF ENTRY=====

PLEASE take notice that the within is a (certified) true copy of a

duly entered in the office of the clerk of the within named court on

Dated,

Yours, etc.

Attorney for

*Office and Post Office Address*  
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To

Attorney(s) for

=====NOTICE OF SETTLEMENT=====

PLEASE take notice that an order of which the within is a true copy will be presented for settlement to the Hon. on

at M.

Dated,

Yours, etc.

Attorney for

Aaron Richard Golub, Esquire, P.C.  
42 East 64th Street  
New York, New York 10065

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PLAINTIFF'S SECOND SUPPLEMENTAL  
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To

Attorney(s) for

Service of copy of the within is hereby admitted

Dated

Attorney(s) for